

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BERENICE CAROL GLOVER,

Plaintiff,

v.

AVANOS MEDICAL, INC.,

Defendant.

Case No.: 3:20-cv-01452-AR

ORDER

Adrienne Nelson, District Judge

United States Magistrate Judge Jeff Armistead issued Findings and Recommendation in this case on March 19, 2024. Judge Armistead recommended that this Court grant Avanos's Motion for Summary Judgment, ECF [49] and deny plaintiff's Motion in Limine, ECF [64], resulting in dismissal of this action. Plaintiff filed untimely objections on April 25, 2024.¹

A district court judge may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If any party files objections to a magistrate judge's proposed findings and recommendations, "the court shall make a *de novo* determination of those portions of the report." *Id.* If no objections are filed, then no standard of review applies. However, further review by the district court *sua sponte* is not prohibited. *Thomas v. Arn*, 474 U.S. 140, 154 (1985). The Advisory Committee notes to Federal Rule of Civil Procedure 72(b) recommend that unobjected to proposed findings and recommendations be reviewed for "clear error on the face of the record." Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment.

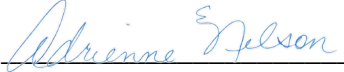
The Court declines to review plaintiff's untimely objections under a *de novo* standard.

¹ Although plaintiff contends the objections are not untimely, she relies on the incorrect governing rule. Federal Rule of Civil Procedure 73(b)(2) states, "Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations." See 28 U.S.C. § 636(b)(1) (establishing fourteen-day-deadline to file objections to proposed findings and recommendation). The deadline to file objections under this rule was April 2, 2024.

Upon review of Judge Armistead's Findings and Recommendation for clear error on the face of the record, the Court finds no such error. Accordingly, the Court ADOPTS Judge Armistead's Findings and Recommendation, ECF [68]. Defendant Avanos's Motion for Summary Judgment, ECF [60], is GRANTED, and plaintiff's Motion in Limine, ECF [64], is DENIED. All pending motions are denied as moot.

IT IS SO ORDERED.

DATED this 29th day of April, 2024.


Adrienne Nelson
United States District Judge